IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY MARYLAND

JEFFREY J. CONNAUGHTON, c/o 4725 Wisconsin Ave. NW, Suite 200, Washington DC 20016,

JEFFREY D. KATZ, c/o 4725 Wisconsin Ave. NW, Suite 200, Washington DC 20016, and

SCOTT D. OSER, , c/o 4725 Wisconsin Ave. NW, Suite 200, Washington DC 20016,

on their own behalf and on behalf of all others similarly situated,

Plaintiffs,

v.

GARY W. DAY, 5000 Birch Street, Suite 3000 Newport Beach, CA 92660

JOHN JEFFREY "JEFF" MAY, 4040 40th St. N., Arlington, VA 22207-4667

ACREBAY CAPITAL MANAGEMENT, LLC, 4833 Bethesda Avenue, Suite 300, Bethesda, Maryland 20814, in Montgomery County, and

CREDIT PORTFOLIO LENDING II, LLC, 4833 Bethesda Avenue, Suite 300, Bethesda, Maryland 20814, in Montgomery County,

Defendants.

Case No. 461536V

COMPLAINT

DEMAND FOR JURY TRIAL

CLASS ACTION

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SUMMARY OF THE ACTION

1. This is a securities fraud class action brought by Plaintiffs, on their own behalf and on behalf of a class of similarly situated investors, arising from a $345 million Ponzi scheme. Claims are brought against the principals of a "feeder fund" who procured investors for the scheme while negligently failing to conduct adequate due diligence, and also making affirmative misrepresentations that they were active fund managers with investment and technical expertise, and concealing from investors the fact that they were merely passive conduits for investments in an opaque venture managed by others.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, which is a civil action in which the damages exceed $30,000.

3. This Court has personal jurisdiction over: (1) Acrebay and CPL2 (all defined below), which maintained their principal places of business in Montgomery County, Maryland at all pertinent times, (2) Day, who transacted business systematically in Maryland and had a residence in Maryland at all times pertinent to, and (3) May, who transacts business systematically in Maryland and owns a residence in Maryland.

4. Venue is proper because Plaintiffs Katz and Oser reside in Montgomery County, Defendants Acrebay and CPL2 have their principal places of business in Montgomery County, and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Montgomery County.

THE PARTIES AND OTHER RELEVANT PERSONS

Plaintiffs

5. Plaintiff Jeffrey J. Connaughton is a resident of Alabama. Plaintiff Connaughton purchased securities sold by defendants in reliance on false and misleading information provided by defendants and has thus been damaged as a result of defendants' conduct.

6. Plaintiff Jeffrey D. Katz is a resident of Montgomery County, Maryland. Plaintiff Katz purchased securities sold by defendants in reliance on false and misleading information provided by defendants and has thus been damaged as a result of defendants' conduct.

7. Plaintiff Scott D. Oser is a resident of Montgomery County, Maryland. Plaintiff Oser purchased securities sold by defendants in reliance on false and misleading information provided by defendants and has thus been damaged as a result of defendants' conduct.

Individual Defendants

8. Defendant Gary W. Day ("Day") is a resident of California, who resided and had his principal place of business in Montgomery County, Maryland at all times relevant hereto.

9. Defendant John Jeffrey "Jeff" May ("May") is a resident of Virginia. May transacts business generally in Maryland and owns a residence in Edgewater, Maryland. This action also arises out of transactions conduct by May, all or in substantial part, in Maryland.

The Day/May Entities

10. Defendant Acrebay Capital Management, LLC ("Acrebay") is a Delaware limited liability company with its last known principal place of business in Bethesda, Maryland. Acrebay is, and has at all relevant times been, controlled by Day and May. Defendant Day has recently (as of October 25, 2018) represented to investors that Acrebay has relocated to Newport Beach, California, although, as of January 4, 2019, Acrebay had not yet registered to do business in California with the California Secretary of State. Acrebay had its principal place of business in Bethesda at all times relevant hereto. As of January 4, 2019, Acrebay's website (http://www.acrebay.com) identifies its address as "4833 Bethesda Avenue, Suite 300, Bethesda, Maryland 20814."

11. Defendant Credit Portfolio Lending, II ("CPL2") is a Delaware limited liability company with its last known principal place of business in Bethesda, Maryland. CPL2 had its principal place of business in Maryland at all times relevant hereto. CPL2 is, and has at all relevant times been, controlled by Day and May.

12. Day, May, CPL2 and Acrebay are at times referred to as the "Defendants."

Nonparties Merrill, Ledford, Jezierski and the MLJ Entities

13. Kevin B. Merrill is a resident of Towson, Maryland.

14. Jay B. Ledford is a resident of Texas.

15. Cameron R. Jezierski is a resident of Texas.

16. Global Credit Recovery, LLC ("GCR") is a Maryland limited liability company with its principal place of business in Towson, Maryland. GCR is the entity through which Merrill primarily operates, and GCR sold purported investments in consumer debt portfolios. Merrill owns, controls, and is the managing member of GCR

17. Delmarva Capital, LLC ("Delmarva") is a Delaware limited liability company with its principal place of business in Towson, Maryland. Merrill owns, controls, and is the CEO/managing member of Delmarva, and Delmarva sold purported investments in consumer debt portfolios.

18. Rhino Capital Holdings, LLC ("Rhino Capital") is a Montana limited liability company with its principal place of business in Towson, Maryland. Rhino Capital is owned and controlled by Merrill, and Rhino Capital received money from investors in connection with purported investments in consumer debt portfolios.

19. Rhino Capital Group, LLC ("Rhino Group") is a Delaware limited liability company with its principal place of business in Towson, Maryland. Merrill owns and controls Rhino Group, and Rhino Group sold purported investments in consumer debt portfolios. In his communications with investors, Merrill portrayed Rhino Group and Rhino Capital (collectively, "Rhino") as a single entity and treated the two interchangeably.

20. DeVille Asset Management LTD ("DeVille") is a Texas limited partnership. DeVille's principal place of business is in Colleyville, Texas. JBL Holdings, an entity owned and/or controlled by Ledford, is DeVille's general partner. DeVille is controlled by Ledford, who holds himself out as DeVille's CEO, and DeVille sold purported investments in consumer debt portfolios.

21. Riverwalk Financial Corporation ("RW Financial") is a Delaware corporation with its principal place of business in Colleyville, Texas. RW Financial is the entity through which Ledford primarily operated. RW Financial received money from investors and is controlled by Ledford, who is the CEO.

22. Platinum Capital Investments, Ltd. ("Platinum") is a Texas limited partnership with its principal place of business in Colleyville, Texas. Platinum was, upon information and belief, controlled at all times by Ledford and Merrill. GCR, Platinum and Delmarva are at times referred to as the "MLJ Borrowers."

23. GCR, Delmarva, Rhino Capital, Rhino Group, DeVille, Platinum, RW Financial, and all affiliated business entities under the control of Merrill, Ledford and/or Jezierski, are collectively referred to as the "MLJ Entities." Merrill, Ledford, Jezierski and the MLJ Entities are at times referred to as the "MLJ Group."

DEFENDANTS' COURSE OF NEGLIGENT AND FRAUDULENT CONDUCT

24. Merrill and Ledford have, at least since 2009, been in the business of purchasing distressed consumer debt. Consumer debt of the type relevant to this matter-generally auto debt, credit card debt, and student loan debt is often sold in portfolios comprised of groups of thousands of individual debtors' accounts. The portfolios are typically denominated by the principal, or face, value amount-the amount of outstanding debt collectively owed by the individual debtors comprising the portfolio. Thus, a portfolio containing $100 million of outstanding debt owed by the individual debtors would be referred to as a "$100 million" portfolio. Typically, debt portfolios are sold for a fraction of the face value. Thus, a $100 million portfolio might be acquired for a few million dollars. The price could depend on numerous factors, including the issuer, type of debt, age of the accounts, whether the debt is secured, or the location of the debtors. Debt portfolios are often documented in electronic spreadsheets or database files containing thousands of entries with relevant information for each individual debt, including, for example, the identity of debtor and contact information, the type of debt, the amount owed, and the date the debt was acquired. Merrill and Ledford, and certain MLJ entities, attempted to enhance the value of their acquired portfolios by using a variety of collections practices to attempt to collect the underlying debts.

25. Starting by 2013, Merrill and Ledford began to offer and sell to investors purported investments in consumer debt portfolios, and were joined in their business by Jezierski. These investments were structured in various ways, including but not limited to: (1) "Investor Agreements," mainly sold to individual investors; (2) "Agreements Concerning Acquisition of Portfolios," or similarly structured agreements; (3) investments structured as

credit facilities or promissory notes; and (4) unit interests in limited liability companies. But, during this time, from 2013 to 2018, the MLJ Group actually purchased and serviced only a limited amount of actual consumer debt, and the securities that they sold were backed by few, if any, actual assets or collateral.

26. On or about February 24, 2016, CPL2 was formed by Day.

27. On February 26, 2016, CPL2 entered into a "Business Loan and Security Agreement" (the "BLSA") with GCR, Delmarva and Platinum (the "MLJ Borrowers"). The substance of the agreement was that CPL2 would serve as "Administrative Agent" for future investors who would ostensibly lend money to the MLJ Borrowers, which loans would be memorialized by promissory notes. The BLSA recited that the proceeds of these loans would be used to acquire credit card debt portfolios. The BLSA provided for a 2% annual fee to be paid by investors to CPL2 for its "services" as "Administrative Agent." Investors were also liable for any costs and expenses, including attorney and expert fees, incurred by CPL2 as "Administrative Agent." The BLSA granted investors a security interest in all of the assets of the MLJ Borrowers.

28. By March 2016, the Defendants had begun soliciting investors to invest in securities offered by the MLJ Group, in the form of promissory notes. The Defendants began, at that time, and continued well into 2018, to sell notes issued by the MLJ Group. In March 2016, the Defendants transmitted the first funds invested through their auspices to the MLJ Group. Between March 2016 and at least June 2018, the Defendants solicited and procured additional investments by new investors, and by existing investors.

29. The Defendants later transmitted copies of the BLSA to prospective investors, including to Plaintiffs Connaughton, Katz and Oser. Section 1.2 of the BLSA provides that "The Loans shall be used only to finance the Borrowers' purchase of Credit Card Debt Portfolios," and that "Each Borrower agrees that the Loan proceeds shall not be used for any other purpose without the Administrative Agent's prior written consent." These statements were false. The

vast majority of the proceeds were used, at all times, to finance the MLJ Group's personal spending and lavish lifestyles, and were not used to "finance...Credit Card Debt Portfolios." The Defendants knew that these statements were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

30. One potential investor solicited by the Defendants was Joel Heiserman, an accountant in Bethesda, Maryland, who was May's accountant, and who later came to lend funds to the MLJ Borrowers through CPL2 and Acrebay. The Defendants also encouraged Heiserman to recommend the investment, and pass the information on to, his accounting clients and business associates. Heiserman told the Defendants that he would relate the information provided to him by the Defendants to clients and business associates. The Defendants knew, expected, and desired, that the information they provided to Heiserman would be transmitted by Heiserman to other prospective investors. Defendants provided Heiserman, and other prospective new investors, with the BLSA. Defendants also had telephone and/or live conversations with Heiserman, in which they described the prospective investment, including the fact that the notes executed by the MLJ Borrowers would be collateralized by consumer debt portfolios. That representation was false, as the notes were not collateralized by any meaningful quantity of consumer debt, as Merrill and Ledford were operating a Ponzi scheme, and the bulk of the proceeds from the notes were used to finance Merrill's and Ledford's lavish lifestyle. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

31. Heiserman recommended participation in the investment to certain clients and associate, including Plaintiff Oser.

32. Starting in or around July 2016, the Defendants began soliciting Plaintiff Oser's prospective investment in CPL2 and certain of the MLJ Entities. During that time period, the Defendants transmitted to Plaintiff Oser, among other things, the BLSA.

33. In late July or early August 2016, Plaintiff Oser had a telephone conversation with Defendant Day. Defendant Day discussed the prospective investment with Plaintiff Oser. Defendant Day indicated that he (Day) and Defendant May would be actively managing a consumer debt portfolio that was being acquired by Acrebay and/or CPL2. Day and May made substantially the same misrepresentation to all members of the Class, at times by email, at times by phone, or both. This representation was false. The Defendants were acting as mere conduits for the MLJ Group, a fact that was not disclosed to their investors. They did not have a business model or investment strategy of their own, and were a mere "feeder fund" designed to find investors for the MLJ Group. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

34. On or about August 11, 2016, in reliance on representations made to him by the Defendants, Plaintiff Oser loaned $50,000 to the MLJ Borrowers pursuant to a "Revolving Promissory Note."

35. After having invested in the MLJ Group, Plaintiff Oser began receiving the periodic "Investor Updates," typically circulated by Defendant Day (later by Defendant May) every 30-60 days. In the "Investor Updates," Defendants regularly made false and misleading statements (some but not all of which are quoted/described herein) concerning (1) the progress of the investments, which were invariably represented to be successful and producing better-than-expected results, and (2) the purported investment strategies employed by the Defendants in purportedly selecting and managing specific investments. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading. Defendants knew that their representations concerning their purported investment strategies were false and misleading, as they were acting as mere conduits for the MLJ Group.

36. As of December 2016, Defendants continued to seek new investors. Heiserman referred Plaintiff Katz to Acrebay, and Heiserman related to Katz the information that the Defendants had provided to Heiserman about CPL2's business model and collateralization of the notes issued by the MLJ Borrowers. In December 2016, Defendants provided Plaintiff Katz with the BLSA.

37. On or about December 16, 2016, in reliance on representations made to him, directly and indirectly, by the Defendants, Plaintiff Katz loaned $25,000 to the MLJ Borrowers pursuant to a "Revolving Promissory Note."

38. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Katz and Oser, on or about December 21, 2016, Defendant Day made several statements concerning Acrebay's business. With respect to certain purported recent purchases of debt portfolios, Day stated that:

> We used operating capital to purchase both arbitrage and collection portfolios. The combination of both strategies is what drives this model and we've been able to do both thus far. So once again, I want to state that I really could not be more pleased with the way our model has proven out thus far in both our purchases and our operations.

The foregoing statements were false and misleading, because Acrebay was failing, had not "proven out," and had purchased little or no actual debt portolio, and Acrebay did not have any "strategies" or "model," and merely served as a conduit to the MLJ Group. The purported debt portfolios purchased for investors by CPL2 and Acrebay did not exist, and/or had already been sold to others. Moreover, the purported portfolios that CPL2 and Acrebay ostensibly "purchased" were whatever portfolios the MLJ Group told them were available for purchase, and had nothing to do with any strategy devised by the Defendants. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

39. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Katz and Oser, on or about January 13, 2017, Defendant Day made several statements concerning Acrebay's business, including the following:

> We do not plan to make any purchases in January of 2017. Although we have both new and reserved capital available for purchases, we have not found any portfolios that meet our acquisition criteria. There is nothing to be concerned about as there is no shortage of quality portfolios in the market. It is simply a matter of maintaining our disciplined approach instead of reaching for opportunities that may not perform as desired.

The foregoing statements were false and misleading because Defendants did not have any "acquisition criteria" or "disciplined approach" and merely "purchased" whatever purported "debt portfolios" the MLJ Group presented to them. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

40. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Katz and Oser, on or about March 31, 2017, Defendant Day made several statements concerning Acrebay's business, including that the Defendants would not make a purchase unless it they first "identify a purchase that meets our criteria" which was not true since they simply invested in whatever purported debt portfolio the MLJ Group presented to them when Defendants had capital on hand. Defendant Day also touted the success of the CPL2 investments, stating that "I just wanted to give everyone in our office a round of applause for pulling together a successful first year," and that

> There is nothing but optimism on my end for this entire operation as we conclude our first year. We continue to buy, sell, re-invest and collect at or above all of our initial projections. I do not foresee any change with this and I believe in the longevity and safety of this vehicle.

There was not a successful first year or any reason for optimism, as the Defendants were operating as a conduit for a Ponzi scheme. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

41. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Katz and Oser, on or about May 16, 2017, Defendant Day stated the following:

> We're really starting to hit our stride in full now that we are a little over a year into the model. We've made some great purchases that continue to perform well. We've also continued to re-invest our internal capital in additional portfolio purchases. I have zero concerns about anything at this point that would cause us to deviate from our desired path and success.

In the June 1, 2017 "Investor Update," Day stated:

> I just want to say as I always do that everything is performing as planned or better - meaning we are hitting all of our targets - if not exceeding them. I am fully confident in the continued success of this model and I will continue to stand by its performance and its longevity.

On August 11, 2017, Day stated that "everything continues to perform well," and that "[w]e see continued performance inline or better than our initial projections." On August 18, 2017, Day stated:

> As far as the performance and longevity of this investment is concerned, I hope that my continued investment in this model strengthens your confidence. We are really starting to hit our stride now as we continue to re-invest a lot of internally generated funds. The re-investment of funds starts to compound with funds generated from collections and solidifies the performance of the investment for the long-term.

The foregoing statements were false and misleading because Defendants had no "model" and were only serving as a conduit for the MLJ Group, and because they did not make any "great purchases." Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

42. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Katz and Oser, on or about July 3, 2017, Day stated:

> While there are a number of great portfolios we could acquire this month, we prefer to remain diversified. We have stringent parameters on both the type of debt we purchase as well as the issuer of the debt. This helps mitigate our risk overall by not letting the weight of a single issuer or a particular category of debt over- weigh our holdings in a single direction.

The foregoing statements were false and misleading because it falsely implied that Defendants were selective as to which "portfolios" they purportedly purchased, and that they had "stringent

parameters" as to what they acquired, as they were merely conduits for the MLJ Group, and "purchased" whatever "portfolios" were presented to them by the MLJ Group. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

43. Starting in September 2017, Defendant May solicited Plaintiff Connaughton's prospective investment in CPL2 and certain of the MLJ Entities. During that time period, the Defendants transmitted to Plaintiff Connaughton, among other things, the Investor Presentation and the BLSA.

44. On October 6, 2017, Defendant May emailed the following information to Plaintiff Connaughton:

> The two principals are myself and Gary Day. Gary represent [sic] the finance arm and has been in private equity for over 20 years. He spent time with Carlisle [sic] as well as a number of well[-]known local PE firms. I represent the technical aspect, creating the software/analystics/algorithms [sic] that pushes [sic] the return higher and constantly monitors [sic] for unforeseen risks. I have 20+ years of experience running software and services companies. Profit is determined after interest and expenses have been paid, plain and simple. After that, the investors split 20% of the profit based upon their "weight" in the investment and the amount of time they have been in. You will get an updated report after every buy we make, usually once to twice a month, which will let you know exactly how much you own relative to the other investors. You will also get a login which will house all your documentation throughout the process. It is seamless and very user friendly.

The foregoing statements were false and misleading. Day was not managing the "finance arm" of the prospective investment, and Defendant May was not providing any "technical" expertise or performing any analytical role with respect to the investment. The Defendants were acting as mere conduits for the MLJ Group, a fact that was not disclosed to their investors. They did not have a business model or investment strategy of their own, and were a mere "feeder fund" designed to find investors for the MLJ Group. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

45. On or about October 19, 2017, in reliance on representations made to him by the Defendants, Plaintiff Connaughton loaned $100,000 to the MLJ Borrowers pursuant to a "Revolving Promissory Note."

46. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about November 6, 2017, Day stated:

> Operations and available inventory continue to do well. There is usually a good amount of product available at deep discounts this time of year. Companies like to wipe the bad debt off of their balance sheets by year end. I hope to find a couple of "end of year specials" in the next 30-45 days. I'll certainly keep you posted on this.

The foregoing statements were false and misleading, because Defendants were operating a conduit to a Ponzi scheme and their "operations" and "inventory" were not doing "well." The statements also falsely implied that Defendants had an investment strategy, that they knew anything about the markets for distressed consumer debt, or were hunting for "specials," as they were merely sending money to the MLJ Group in exchange for whatever purported distressed debt the MLJ Group directed them to acquire. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

47. In or around early December 2017, Defendant May, in a telephone call, solicited additional investments from Plaintiff Oser. On or about December 18, 2017, in reliance on representations made to him by the Defendants, Plaintiff Oser loaned an additional $25,000 to the MLJ Borrowers pursuant to a "Revolving Promissory Note."

48. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about December 18, 2017, Day stated that "[o]ur performance thus far has been great and I do not predict any deviation from this as we get close to the end of our second year of operations." The foregoing statement was false and misleading, because Defendants were operating a conduit to a Ponzi scheme, and their "performance" was not "great." Defendants knew their representations about the business of CPL2 and the MLJ

Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

49. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about January 11, 2018, Day stated:

> Sometimes we can find some great bargains at the end of the year but sometimes, as was the case with this year, none of the portfolios we saw matched our criteria. Please remember that this is no easy task. We have to find a portfolio that matches our criteria (which in and of itself is difficult) as well as match the purchase price with our available capital.
>
> On the bright side, we have been negotiating with a major creditor who wants to get some debt off of their books by the end of this month so we plan to make an acquisition shortly. We have quite a bit of capital to deploy for an acquisition and have identified two potential portfolios that match both our criteria and our available capital. We have also sold the first two portfolios we purchased back in March of 2016 and are waiting to receive the sales proceeds on these. As soon as we do (which should be within the next week), we are going to use the sales proceeds (which are over $1mm) as well as the new capital we have available to purchase at least one of the two portfolios previously mentioned.

The foregoing statements were false and misleading, because Defendants had no "criteria" for portfolios and did not "find" them, and Defendants did not "negotiate[] with a major creditor." The fake portfolios they acquired were merely presented to them by the MLJ Group, and Defendants were a mere conduit of funds to the MLJ Group. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

50. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about February 9, 2018, Day stated:

> Here is a quick summary of what we've been working on during the past several weeks. First, we sold the first 5 portfolios which were purchased in March, April and May of 2016. We sold them for an amount in excess of $2.4m. This is a substantial exit value as all of these portfolios were already in the black from collections alone.
>
> We then combined the above[-]mentioned sales proceeds ($2.4m) with a little bit of new investor capital ($285k), as well as a little more than $1.3m in cash from operations to

make a purchase for $4m. It's a great portfolio and we negotiated a great purchase price for it.

The foregoing statements were false and misleading because the Defendants did not "sell" any "portfolios" – they had merely sent another $285,000 in new investments, as well as $1,300,000 in cash on hand – to the MLJ Group in exchange for fake portfolios. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

51. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about April 2, 2018, Day stated:

> Everything is running smoothly. As of today, we are two years into this venture. I am extremely satisfied with the performance thus far and now that we are two years in, we have some great data to use in our model. As you know, when any new investment is started, we only have historical data with which to base our model. Although we have nearly 15 years of past data on Global Credit Recovery LLC (our borrower) and one successful fund previous to this version, one never knows if past data will prove to reliable for projections. Well, I am proud to say that the actual data we have now from the first two years either matched or out-performed our projections thus far.
>
> In short, we're doing great!

The foregoing statements were false and misleading because (1) everything was not "running smoothly" and CPL2 was not "doing great," (2) Defendants had no "model," and (3) Defendants could not have had 15 years of historical data on GCR because it was formed in 2011. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading. And Day also applied additional pressure for investors to re-up, suggesting that this was a particularly opportune moment for investing, principally because Defendants would purportedly stop accepting additional investments:

> ...we will not be accepting any new money by the end of this year– it may even be as soon as August of 2018. Our model suggests that we will not need any more new capital as we will be able to self-fund all future acquisitions with internal funds. It will also

> boost profitability overall since as you know, any new capital comes with both an interest and management fee expense. I suggest if you are happy with the performance thus far, you should consider adding additional capital to your account soon.
>
> ...
>
> we have quite a few investors that we initially let invest less than the $100,000.00 minimum as they stated they would add more to their account once they "tested the waters." I understood this as I am an investor in many deals as well. Many of these investors have not added to their accounts. I would urge you to do so soon. As you may or may not be aware, we have the right to remove any investor at any point in time with 90-day notice. Of course, if we elect to do so, you will receive your principal plus any accrued interest back from us. In short, if you are one of these investors, I would encourage you to add to your account to meet our $100,000.00 minimum within the next 90 days. If you do not, we will most likely return your principal and any accrued interest within the next few months.

The foregoing statements were false and misleading because were no circumstances suggesting that it would be advantageous for investors to "consider adding additional capital...soon." Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

52. On or about May 15, 2018, in reliance on representations made to him by the Defendants, Plaintiff Connaughton loaned an additional $50,000 to the MLJ Borrowers pursuant to a "Revolving Promissory Note."

53. In an "Investor Update" sent to investors, including but not limited to Plaintiffs Connaughton, Katz, and Oser, on or about May 17, 2018, May stated:

> We're starting to hit a really great stride with this model. Collections are strong and I predict we will continue to acquire portfolios in the $1m to $1.5m range on a monthly basis (assuming of course we can identify portfolios that meet our criteria). We have already identified another portfolio for a June acquisition and we already have enough capital committed from Investors and internal funds to complete this in June.

Similarly, in an "Investor Update" sent on or about August 15, 2018, May stated:

> We continue to acquire approximately $1m in new portfolios each month now. No different this month as we purchase a $1m portfolio yesterday. The mix of capital was $875k of re-invested capital and $125k of new money. This is exactly where I'd like us to be each month. Collections are strong and we are buying good products so I really see no reason why we cannot continue to hit this goal each month.

> ...The model is operating as predicted and I know I have stated this is previous emails, but we are really hitting our stride now and we're only a little over two years into this investment. So, we have plenty of time to keep it rolling forward and to keep re-investing our capital into more portfolios

The foregoing statements were false and misleading, because Defendants were operating a conduit to a Ponzi scheme, they were not "hitting stride," "collections" were not "strong," and they were not buying "good products." Additionally, Defendants were not "identifying portfolios," and did not have any "model," as noted above. Defendants knew their representations about the business of CPL2 and the MLJ Group were false and misleading, or, alternatively, in exercise of reasonable care should have known that they were false and misleading.

54. Contrary to the representations made to them by the Defendants, the Notes made in favor of Plaintiffs and similarly situated investors were not backed by consumer debt, or at least not a materially quantity of consumer debt, and there was never any prospect of retaining the principal amount of the investments, much less, of receiving the promised returns.

55. On September 18, 2018, the Securities and Exchange Commission issued a press release indicating that the MLJ Group had been operating a Ponzi scheme, and that the SEC had obtained injunctive relief in various federal courts halting the scheme and freezing certain assets owned and/or controlled by the MLJ Group. The SEC revealed that "[r]ather than direct investor funds to the acquisition and servicing of debt portfolios as promised, the defendants allegedly used the funds to make Ponzi-like payments to earlier investors." The SEC also noted that Merrill and Ledford "stole at least $85 million of the investor funds to maintain lavish lifestyles, spending millions of dollars on luxury items, including $10.2 million on at least 25 high-end cars, $330,000 for a 7-carat diamond ring, $168,000 for a 23-carat diamond bracelet, millions of dollars on luxury homes, and $100,000 to a private fitness club." The SEC commenced a civil action against certain members of the MLJ Group, styled *SEC v. Kevin B. Merrill, et al., No.* 1:18-cv-02844-RDB (D. Md.).

56. Merrill, Ledford and Jezierski were also indicted by a grand jury for crimes arising from their conduct. *U.S. v. Kevin B. Merrill, et al.*, No. 1:18-cr-00465-RDB-1 (D. Md.), including but not necessarily limited to wire fraud, money laundering, identity theft, and structuring (structuring financial transactions to evade reporting requirements), and conspiracy to commit the foregoing crimes.

CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION

57. In committing the wrongful acts alleged herein, the Defendants have pursued, or joined in the pursuit of, a common course of conduct, and have acted in concert with and conspired with one another in furtherance of their common plan or design. In addition to the wrongful conduct herein alleged as giving rise to primary liability, the Defendants further aided and abetted and/or assisted each other in breaching their respective duties.

58. The Defendants entered into a conspiracy, common enterprise, and/or common course of conduct. During all times relevant hereto, the Defendants, collectively and individually, initiated a course of conduct that was designed to and did: deceive investors regarding the extent to which the Defendants were themselves operating and/or adding value or expertise to a business venture acquiring or managing debt portfolios, and the extent to which the Defendants had performed any due diligence concerning the MLJ Group. The Defendants did so in order to maximize the fees that they would receive from doing nothing but serving as an intermediary between investors and the MLJ Entities. In furtherance of this plan, conspiracy, and course of conduct, the Defendants collectively and individually, took the actions set forth herein.

59. The purpose and effect of the Defendants' conspiracy, common enterprise, and/or common course of conduct was, among other things, to disguise the Defendants' violations of law, and to conceal adverse information concerning the MLJ Entities' operations, financial condition, and future business prospects.

60. Each of the Defendants aided and abetted and rendered substantial assistance in the wrongs committed by their respective co-conspirators complained of herein. In taking such actions to substantially assist the commission of the wrongdoing complained of herein, each Individual Defendant acted with knowledge of the primary wrongdoing, substantially assisted in the accomplishment of that wrongdoing, and was aware of his or her overall contribution to and furtherance of the wrongdoing.

CLASS ACTION ALLEGATIONS

61. Plaintiffs bring this action as a class action pursuant to Md. Rule 2-231(a) and (b)(3) on behalf of Class consisting of all persons who lent money to the MLJ Borrowers by means of a "Revolving Promissory Note" for which CPL2 served as "Administrative Agent." Excluded from the Class are the Defendants herein, officers and directors of Acrebay, and CPL2 and the MLJ Group, members of their immediate families and the heirs, officers, directors and agents, successors or assigns of any of the foregoing. The definition of the Class is subject to discovery with respect thereto and may be amended at the time Plaintiffs file a motion seeking certification of the Class by the Court.

62. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, they believe there are, at a minimum, more than 60 members of the Class.

63. Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting solely individual members of the Class. The following are questions of law and fact common to the Class:

- whether the Defendants engaged in acts or conduct in violation of the Act and the common law as alleged herein;
- whether the Defendants made intentional, reckless and/or negligent misrepresentations and/or omissions of material facts regarding the MLJ Entities

and the operations of Acrebay and CPL2;

- whether such misrepresentations and/or omissions of material facts were essentially linked to the damages sustained by the Plaintiffs and the members of the Class;
- whether the Defendants acted knowingly, recklessly and/or negligently; and
- whether the members of the Class have sustained damages and, if so, the proper measure of such damages.

64. Plaintiffs' claims are typical of those of the Class because Plaintiffs and the other members of the Class sustained damages arising out of the Defendants' wrongful conduct, in violation of the Act and the common law.

65. Plaintiffs will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class actions and securities litigation. Plaintiffs have no interests antagonistic to, or in conflict with, those of the Class.

66. A class action is superior to other available methods for the fair and efficient adjudication of the controversy since joinder of all the members of the Class is impracticable. Furthermore, because the damages suffered by most of the individual Class members may be relatively small, the expense and burden of individual litigation makes it impracticable for the Class members individually to redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

COUNT I
VIOLATION OF UNIFORM SECURITIES ACT § 509(a)
(Against Acrebay and CPL2)

67. Plaintiffs incorporate by reference and reallege each and every allegation contained above, as though fully set forth herein.

68. This Count is brought under § 509(a) of the Uniform Securities Act of 2002 (the "Act"), which is codified in substance, in a form more closely resembling its predecessor (§

410(a) of the Uniform Securities Act of 1985) at Maryland at Md. Code Ann. § 11-703(a), and in Alabama at Ala. Code. § 8-6-19(a).

69. The Defendants named in this Count are sellers who offered or sold Plaintiffs and the Class securities by means of untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

70. Plaintiffs did not know and in the exercise of reasonable care could not have known of the untruths or omissions alleged above.

71. Each of the Defendants named in this Count in exercise of reasonable care could have known of the existence of the facts by reason of which liability is alleged to exist in this action.

72. Also in violation of § 509(a), as well as § 301, of the Act, the Defendants named in this count sold to Plaintiffs and the Class securities that were required to be registered under the Act, were not exempt from registration, and were not registered, in violation of the Act.

73. Plaintiffs and the Class have sustained injury and suffered damages.

74. The Defendants named in this Count are jointly and severally liable to Plaintiffs and the Class.

COUNT II
VIOLATION OF UNIFORM SECURITIES ACT § 509(g)
(against May and Day)

75. Plaintiffs repeat and reallege each and every allegation contained above.

76. This Count is brought by Plaintiffs pursuant to § 509(g) of the Act, codified in substance at Md. Code Ann. § 11-703(c), and Ala. Code § 8-6-19(c).

77. Acrebay and CPL2 are liable as sellers under § 509(a) of the Act. May and Day directly or indirectly controlled Acrebay and CPL2 by virtue of their positions as senior officers and/or directors.

78. The Defendants named in this Count materially aided in the sale of securities to Plaintiffs and the Class.

79. Plaintiffs did not know and in the exercise of reasonable care could not have known of the untruths or omissions alleged above.

80. Each of the Defendants named in this Count in exercise of reasonable care could have known of the existence of the facts by reason of which liability is alleged to exist in this action.

81. The Defendants named in this Count are jointly and severally liable to Plaintiffs and the Class.

COUNT III
FRAUD
(against all Defendants)

82. Plaintiffs repeat and reallege each and every allegation contained above.

83. The Defendants fraudulently and repeatedly represented that they were themselves personally developing investment strategies and managing the acquisition and monitoring of consumer debt portfolios, when, in fact, they were merely serving as a conduit "feeder fund" for the MLJ Group.

84. These statements went beyond mere puffery and purported to be authoritative statements of fact.

85. Defendants made these statements at a time when they were fully aware of their falsity.

86. In the alternative, Defendants made these statements in reckless disregard of their truth or falsity.

87. Defendants made these statements with the intent that Plaintiffs would act in reliance upon them by lending funds to the MLJ Borrowers.

88. As a result of this reliance upon these false statements, Plaintiffs lent funds to the MLJ Borrowers and were damaged thereby.

COUNT IV
NEGLIGENT MISREPRESENTATION
(Against all Defendants)

89. Plaintiffs repeat and reallege each and every allegation contained above.

90. This count is brought under the common law of negligent misrepresentation. Defendants' misrepresentations and omissions in their statements to plaintiffs, as set forth above, were the direct and proximate cause of plaintiffs' injuries.

91. At the time of said misrepresentations and omissions, plaintiffs were ignorant of their falsity and believed them to be true. In reliance on said misrepresentations and omissions, the integrity and superior knowledge of defendants, and in ignorance of the truth, plaintiffs were induced to, and did, lend funds to the MLJ Borrowers. Had Plaintiffs known the truth, they would have not taken such action. By reason thereof, they have been damaged.

COUNT V
BREACH OF FIDUCIARY DUTY
(Against all Defendants)

92. Plaintiffs repeat and reallege each and every allegation contained above.

93. The Defendants, acting as *de facto* agent and trustee, owed and owe Plaintiffs and the Class fiduciary obligations. By reason of their fiduciary relationships, the Individual Defendants owed and owe Plaintiffs and the Class the highest obligation of good faith, fair dealing, loyalty, and due care.

94. The Defendants and each of them, violated and breached their fiduciary duties of candor, good faith, and loyalty.

95. The Defendants either knew, were reckless, or were grossly negligent in disregarding the illegal activity of such substantial magnitude and duration.

96. As a direct and proximate result of the Defendants' breaches of their fiduciary obligations, Plaintiffs and the Class sustained significant damages, as alleged herein. As a result of the misconduct alleged herein, these defendants are liable to Plaintiffs and the Class.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs demand judgment as follows:

A. Certifying this action as a class action pursuant to Md. Rule 2-231;

B. Against all of the Defendants and in favor of Plaintiffs and the Class for the amount of damages sustained by Plaintiffs as a result of the Defendants' fraud, negligence and breaches of fiduciary duties;

C. Granting such extraordinary equitable and/or injunctive relief as permitted by law, equity, and state statutory provisions sued;

D. Awarding to Plaintiffs and the Class restitution from defendants, and each of them, and ordering disgorgement of all profits, benefits, and other compensation obtained by the Defendants;

E. Awarding to Plaintiffs the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

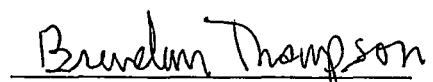
F. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury.

Dated: January 4, 2019

CUNEO GILBERT & LADUCA, LLP



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